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6 Attorney for Defendant:  
7 LSI Title Agency, Inc.

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 DENNIS E. SCARBERRY, ) Case No.: 2:12-cv-00128-KJD-CWH  
11 Plaintiff, )  
12 v. )  
13 FIDELITY MORTGAGE OF NEW YORK, ) **[PROPOSED] ORDER GRANTING**  
14 etc., et al, ) **JOINDER MOTION TO DISMISS**  
15 Defendants. ) **PLAINTIFF'S COMPLAINT FILED BY**  
16 ) **LSI TITLE AGENCY, INC.**  
17 )  
18 )  
19 )

20 Defendants, Wells Fargo Bank, N.A. and Mortgage Electronic Registrations Systems,  
21 Inc. filed a Motion to Dismiss Plaintiff's Complaint pursuant to FRCP 12(b)(6) on January 26,  
22 2012 (Docket No. 8). On January 27, 2012, Defendant, LSI Title Agency, Inc. filed a Joinder to  
23 the Motion to Dismiss (Docket No. 11). The Docket Report shows that Plaintiff has failed to file  
24 a response to the Motion to Dismiss..

25 The Court having considered the moving papers, its own files, and good cause appearing,  
26 rules as follows:

27 1. Pursuant to Local Rule 7-2(b), any Response and/or Opposition to Defendants'  
28 Motion to Dismiss was required to be filed with the Court and served within fourteen days after

service of the motion. No Response and/or Opposition has been filed by the Plaintiff regarding this matter. Pursuant to Local Rule 7-2(d), the failure of an opposing party to file Points and Authorities in response to any Motion shall constitute consent to the granting of the motion.

2. The Court may grant the Motion to Dismiss for failure to follow local rules. *Ghazali v. Moran*, 46 F.3d 52 (9<sup>th</sup> Cir. 1995). Before dismissing the action, the district court is required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions. The Court has considered these factors and finds that Plaintiff has received notice and has been given ample time to respond.

IT IS THEREFORE ORDERED, that based on the foregoing, the Motion to Dismiss Plaintiff's Complaint for failure to state a claim for relief and LSI Title Agency, Inc.'s joinder thereto is GRANTED and Defendant, LSI Title Agency, Inc. is hereby dismissed with prejudice.

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

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**UNITED STATES DISTRICT COURT JUDGE**

Respectfully submitted,

McCarthy & Holthus

By: /s/Christopher M. Hunter  
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